

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:24-cv-00011

Barry Patrick Emmett,
Plaintiff,

v.

Leslie Wooten et al.,
Defendants.

ORDER

Plaintiff Barry Patrick Emmett, an inmate confined in the Texas Department of Criminal Justice (TDCJ) and proceeding pro se, filed this civil-rights action. This case was referred to United States Magistrate Judge John D. Love.


On January 11, 2024, the magistrate judge issued a report (Doc. 5) recommending that plaintiff's motion for a temporary restraining order (Doc. 4) be denied. Because plaintiff accumulated three strikes under 28 U.S.C. § 1915(g) and failed to establish imminent danger of serious physical injury, the magistrate judge also recommended that the court deny plaintiff leave to proceed without prepayment under § 1915(g) and to dismiss this action unless—within fifteen (15) days—plaintiff pays the full filing fee of \$405.00.

A copy of this report was sent to plaintiff at his address, with an acknowledgment card. The docket reflects that plaintiff received a copy of the report on January 18, 2024. Doc. 6. However, to date, plaintiff neither filed objections to the report nor otherwise responded to the contents of the report or his status as a barred litigant.

When there have been no timely objections to a magistrate judge's report and recommendation, the court reviews it only for clear error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996) (en banc). Having reviewed the magistrate judge's report, and being satisfied that it contains no clear error,

the court accepts its findings and recommendation. Plaintiff's motion for a temporary restraining order (Doc. 4) is denied. Plaintiff's lawsuit is dismissed with prejudice as to the refiling of another *in forma pauperis* lawsuit raising the same claims, but without prejudice as to the refiling of this lawsuit upon payment of the full \$405 filing fee within fifteen days from the date of final judgment. All pending motions are denied as moot.

So ordered by the court on April 4, 2024.



J. CAMPBELL BARKER
United States District Judge